



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, OPR, MNR,

Introduction

In the first application, by filing number, the tenant seeks to cancel a ten day Notice to End Tenancy for unpaid rent dated November 21, 2016.

In the second application the landlords seek an order of possession pursuant to that Notice and for a monetary award for rent.

The landlords requested to amend their claim to include loss of rental income for December 2016 and January 2017. The tenant consented to that amendment and the claim is amended accordingly.

The landlords also requested to amend their claim to include a charge of \$493.50 levied by the strata corporation for cleaning up a previous tenant's garbage and belongings. The tenant consented to have that claim heard at this hearing as well. The landlords' claim is amended accordingly.

All parties attended the hearing and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

Issue(s) to be Decided

Was the ten day Notice a proper and valid Notice? Does the tenant owe rent or is she responsible for the strata corporation clean up charge?

Background and Evidence

The rental unit is a two bedroom condominium apartment.

The landlords had been renting the premises to a Mr. W.F., who proved to be a very bad tenant. He has been evicted.

In November 2016, the tenant moved into the apartment with the consent of Mr. W.F. but without the knowledge of the landlords.

She was there while the landlords pursued the eviction process against Mr. W.F.

The tenant and the landlords met in mid-November and reached an agreement, put in writing in a standard form tenancy agreement on November 13, 2016, that the tenant would rent the premises for a tenancy starting November 1, 2016 for a one year term ending November 1, 2017, at a monthly rent of \$940.00, due on the first of each month.

The tenancy agreement called for the tenant to pay a security deposit of \$470.00 by November 20, 2016.

On or about November 11, workmen attended at the request of the strata corporation "due to tenant issues" and cleaned up a "mess." The charge was \$493.50. The strata corporation has passed that charge on to the landlords. It has not yet been paid. They seek an unspecified portion of it from this tenant.

By November 21, the tenant had not paid either the deposit or the November rent. The landlords then issued the ten day Notice in question. The Notice claims that the tenant failed to pay \$940.00 rent.

The tenant did not pay the December rent when it came due December 1.

The tenant testifies that she moved in about November 12. Her friend J. was living there. She says she found the place disgusting. She found over 60 used needles in

one bedroom. She admits to putting the belongings of existing occupants in boxes and into the apartment building hallway.

She says she has post dated cheques for the rent but the landlord has not come by to get them.

Analysis

The tenancy agreement is clear. The tenant is responsible for paying the full rent of \$940.00 for November. That is the deal she struck with the landlords in order to stay in the rental unit and be their tenant. This is regardless of whether she paid the prior tenant any money.

That rent money was due on signing the agreement and was certainly due when the landlords served the tenant with the ten day Notice.

The tenancy agreement makes no determination about how rent is to be paid between the landlords and the tenant. In such a circumstance it is a debtor's obligation, the tenant in this case, to search out her creditor, the landlords, and tender rent. The tenancy agreement itself gives an official address in that regard. The tenant could have paid rent there.

I find that the ten day Notice was a valid Notice. The tenant's application to cancel it must be dismissed. As a result of that Notice, by operation of s. 46 of the *Residential Tenancy Act*, this tenancy ended on December 4, 2016 and the landlords are entitled to an order of possession.

The landlords are owed the rent from November, December and from January 2017. I award them \$2820.00.

I dismiss the landlords' claim for the site attendance and clean up charged by the strata corporation. Firstly, it was the previous tenant's or other occupants' responsibility to care for their own belongings, not this tenant's. Secondly, the evidence surrounding what was done by the workmen and what share the tenant is claimed to be responsible for is far too vague to justify any award.

Conclusion

The tenant's application is dismissed.

The landlords' application is allowed. They will have an order of possession. They will have a monetary order of the amount of the \$2820.00 award. There is no claim for recovery of any filing fee.

This decision was rendered orally at hearing and is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated January 5, 2017

Residential Tenancy Branch